

AMENDED IN ASSEMBLY APRIL 11, 2011

AMENDED IN ASSEMBLY MARCH 29, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 45

Introduced by Assembly Member Hill

December 6, 2010

An act to amend Sections 5384.1 and 5384.5 of the Public Utilities Code, and to add Section 40000.20 to the Vehicle Code, relating to charter-party carriers of passengers.

LEGISLATIVE COUNSEL'S DIGEST

AB 45, as amended, Hill. Charter-party carriers of passengers: alcoholic beverages: open containers.

The Passenger Charter-party Carriers' Act, with certain exceptions, prohibits a charter-party carrier of passengers from engaging in transportation services subject to regulation by the Public Utilities Commission without obtaining a specified certificate or permit, as appropriate, from the commission. The act, except as specified, requires the driver of any limousine for hire operated by a charter-party carrier of passengers (carrier) under a valid certificate or permit to comply with prescribed requirements relating to alcoholic beverages, including ascertaining whether any passenger is under the age of 21 years, reading to the passenger a statement that the consumption of any alcoholic beverage in the vehicle is unlawful, requiring such a passenger to sign the statement, and, if a minor passenger, after signing the statement, is found to be, or to have been, consuming any alcoholic beverage during the course of the ride, immediately terminating the contract of hire and returning the passenger to the point of origin. The act also subjects the

carrier to specified civil penalties, based on the number of offenses, for conviction of a driver, or any officer, director, agent, or employee of the carrier, of a violation of the Vehicle Code that prohibits storage of an opened container of an alcoholic beverage in a motor vehicle.

This bill would expand the application of those alcoholic beverage provisions concerning passengers under the age of 21 years by applying those requirements, *except as specified*, to the driver of any vehicle used in the transportation of passengers for hire operated by a permitted or certificated carrier. The bill would make the 3rd or subsequent violation of the open container prohibition by a driver of any vehicle used in the transportation of passengers for hire operating under a valid certificate or permit a misdemeanor. The bill, by creating a new crime, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Brett Studebaker Law.

3 SEC. 2. Section 5384.1 of the Public Utilities Code is amended
4 to read:

5 5384.1. (a) The driver of any vehicle used in the transportation
6 of passengers for hire operated by a charter-party carrier of
7 passengers under a valid certificate or permit shall do all of the
8 following:

9 (1) The driver shall ascertain whether any passenger is under
10 the age of 21 years.

11 (2) If any passenger is under the age of 21 years, the driver shall
12 read to the passenger a statement that the consumption of any
13 alcoholic beverage in the vehicle is unlawful, that no alcoholic
14 beverage may be transported in the passenger compartment of the
15 vehicle, that all alcoholic beverages are required to be carried in
16 the vehicle trunk or other locked compartment, and that, if during
17 the course of the ride any minor is found to be, or to have been,

1 consuming any alcoholic beverage, the contract will be terminated
2 and the customer will be brought back to the point of origin of the
3 ride.

4 (3) After reading the statement described in paragraph (2) to
5 every passenger under the age of 21 years, the driver shall require
6 every passenger under the age of 21 years to sign the statement.
7 The operator of the vehicle shall retain the signed statement for
8 the period required by the commission.

9 (4) If any minor passenger, after signing a statement pursuant
10 to paragraph (3), is found to be, or to have been, consuming any
11 alcoholic beverage during the course of any ride subject to this
12 section, the driver shall immediately terminate the contract of hire
13 and shall return the passengers to the point of origin of the ride.

14 (b) Any failure of a driver to comply with subdivision (a) that
15 results in the conviction of the driver of a violation of Section
16 23225 of the Vehicle Code, shall be subject to the penalties
17 prescribed in Section 5384.5.

18 (c) Notwithstanding any other provision of law, this section
19 ~~does not apply to the driver of any bus, taxicab, or van exempted~~
20 ~~from this chapter pursuant to Section 5353, and it does not prohibit~~
21 *does not prohibit* a parent or legal guardian from consuming
22 alcoholic beverages in a vehicle used in the transportation of
23 passengers for hire while accompanied by his or her minor children.

24 (d) *This section does not apply to the driver of any of the*
25 *following:*

26 (1) *A bus, taxicab, or van exempted from this chapter pursuant*
27 *to Section 5353.*

28 (2) *A pupil activity bus, including any motor vehicle specified*
29 *in subdivision (k) of Section 545 of the Vehicle Code.*

30 (3) *A school pupil activity bus, as defined in Section 546 of the*
31 *Vehicle Code.*

32 (4) *A vehicle for a charter-party carrier that has been engaged*
33 *to provide transportation for minors accompanied by a legal*
34 *guardian or parent.*

35 SEC. 3. Section 5384.5 of the Public Utilities Code is amended
36 to read:

37 5384.5. If the driver of any vehicle used in the transportation
38 of passengers for hire operating under a valid certificate or permit,
39 or any officer, director, agent, or employee of a charter-party carrier
40 of passengers operating vehicles used in the transportation of

1 passengers for hire under such a certificate or permit, is convicted
2 of a violation of Section 23225 of the Vehicle Code, the
3 commission, after a hearing, shall do the following:

4 (a) For a first offense, the commission may impose a civil
5 penalty of not more than two thousand dollars (\$2,000) upon the
6 carrier, as determined appropriate by the commission.

7 (b) For a second offense, the commission may impose a civil
8 penalty of not more than two thousand dollars (\$2,000) upon the
9 carrier or suspend the carrier's permit for not more than 30 days,
10 or both, as determined appropriate by the commission.

11 (c) For a third offense, the commission shall revoke the carrier's
12 permit. A third or subsequent offense shall also be punishable
13 pursuant to Section 40000.20 of the Vehicle Code.

14 SEC. 4. Section 40000.20 is added to the Vehicle Code, to
15 read:

16 40000.20. A third or subsequent violation of Section 23225,
17 relating to storage of an opened container of an alcoholic beverage,
18 by a driver of any vehicle used in the transportation of passengers
19 for hire, operating under a valid certificate or permit pursuant to
20 the Passenger Charter-party Carriers' Act (Chapter 8 (commencing
21 with Section 5351) of Division 2 of the Public Utilities Code), is
22 a misdemeanor.

23 SEC. 5. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.